

Margaret Davie, Frances Davie,
and Trephena Davie, (Daugh-
ters of Sir William Davie, Bart.
Deceased) Infants, by Nicho-
las Pollexfen, Esq; their next
Friends.

Appellants.

Nicholas Hooper the Younger,
Esq; and Mary his Wife, who
was only Daughter of the
said Sir William Davie, by his
First Wife.

Respondents.

The Respondents CASE.

THAT the said Sir William Davie (having but 5000*l.* for his Portion, in the Life-time of Sir John Davie, Bart. his Eldest Brother) did Marry with Mary Stedman, who was then under the Age of 21 Years, and was Entitled to an Estate of Inheritance in Somersetshire, of the value of 250*l.* per Annum, the greatest part of which was then in Jointure to Mary Stedman Widow, her Mother-in-Law.

April 1. 1687. THAT Precedent to such Marriage, and in Consideration thereof, the said Sir William Davie, then William Davie of the Middle-Temple, Esq; together with Sir John Davie his Brother, and Margaret their Mother, did by Articles of Agreement, Covenant with the said Mary Stedman and Henry Long, Esq; that He, his Executors, and Administrators, would within One Year after the Marriage, at the Request of the Trustees, settle and assure the Sum of 5000*l.* or good Securities for Money, in manner following, (*viz.*) 2000*l.* part of the 5000*l.* to and for the sole Benefit of the said Mary Stedman, the intended Wife, in Case the said Marriage should take Effect, and he the said William Davie, should dye in the Life-time of the said Mary, without any Issue by her, but if the said William Davie should dye in the Life-time of the said Mary, leaving Issue by her Living, or then in ventre sa mere that should afterwards be Born Alive, then the said William Davie was to settle but 1500*l.* part of the 5000*l.* on the said Mary, which 1500*l.* as to the Interest thereof, was to be for the Benefit of the said Mary the intended Wife, during her Life, and after her Decease, the Principal was to be for the benefit of the Issue of that Marriage.

AND by the same Articles, it was further Covenanted that the said William Davie, would within the time aforesaid, upon Request of the Trustees, settle and assure 2500*l.* other part of the said 5000*l.* to and for the Use of the Issue, of that Marriage, in such proportion as the said William Davie should by any Writing Appoint.

PROVIDED always that if no such Request should be made within a Year after the said intended Marriage, that then the said Sir John Davie and his Mother, were to be discharged of their said Covenants, but such Provision was not to extend to the discharge of the said William Davie, or of his Executors or Administrators.

THAT the said Marriage was afterwards had, and the Respondent Mary, is the only Issue of that Marriage.

THAT the Respondent Mary's Mother, when she came of Age, was prevailed on by Fine, and common Recovery, and Deeds, leading the Uses thereof, to settle her said Somersetshire Estate (by which Settlement the Respondent Mary claims the same) to the Use of the said William Davie for Life, the Remainder to Mary his Wife, for her Life, Remainder to all the Sons of that Marriage, in-tayle Male, Remainder to the Daughters of such Marriage, in such proportion, as said William Davie should limit, Remainder to the Heirs Males of the Body of said William Davie, Remainder to the Heirs of his Body on his then Wife, Remainder to the right Heirs of Sir William Davie, shortly after which, this Respondent Mary's Mother died.

THAT the said Sir John Davie, also died, on whose Death the said Sir William Davie, had an Estate come to him in Devonshire, of 2000*l.* per Annum (which is now gone over to the Heir Male of the Family.)

THAT the said Sir William Davie, did Marry with Abigail the Daughter of John Pollexfen, Esq; with whom he had 5000*l.* Portion, and had Issue by her Three Daughters, the now Appellants, and having Purchased an Estate in Devonshire, to the value of 1400*l.* per Annum, by Deeds of Lease and Release (Ingrossed and Executed the Day before his Death, but antedated six Months back) settled his new Purchased Estate in Devonshire, and charged the same with the Payment of 5000*l.* a piece to each of the Appellants, and thereby intayled the same, Subject to such Charge on himself, and the Heirs Males of his Body, with Remainder over to the Appellants, and the Respondent Mary, so that he might at any time have barr'd such Remainder, and did by his Will, Dated in February, 1607, Devise some Legacies to this Respondent Mary, of small value, and less than what he thereby Devised to the Appellants, and died the 19th Day of March, 1607.

THAT the Appellants did by their next Friend, Exhibit their Bill against the Respondent Mary, then an Infant, and likewise against the Trustees and Executors of Sir William Davie and Others, to have a discovery of the said Marriage Articles, and of the Settlement of the said Somersetshire Estate, and amongst other things to defeat the Respondent Mary of all Benefit of the said Articles, and the Respondent Mary, did likewise by her next Friend (being then an Infant) Exhibit her Bill against the Appellants and the Trustees and Executors of Sir William Davie, to recover what was due to her by the said Articles, and have an account of the Real and Personal Estate of her Deceased Father, and the Writings relating thereto, which Bills being answered, the Appellants or some one on their behalf, took out and Executed four Commissions for Examination of Witnesses, and the said Causes, came afterwards to be heard before the Right Honourable the Lord Keeper of the Great Seal of Great Britain, on the 17th Day of November, 1710. On which Hearing,

HIS Lordship declared that the 2500*l.* was well vested by the Articles in the Respondent Mary, and Decreed the same to be paid to the Respondents, with Interest after the rate of 5*l.* per Cent. from the Death of the said Sir William Davie, but dismissed the Respondents Bill as to the 1500*l.*

Object. 1. THAT the Appellants by their Appeal alledge the same Decree is Erroneous, in that part which decrees the 2500*l.* with Interest to the Respondents.

Answ. SIR William had no Interest in the Somersetshire Estate, at the time of the Settlement, for that Estate moved only from the Respondent Mary's Mother, and was never expressed or designed to be a Satisfaction, for what was limited by the Articles to the Issue of that Marriage, and the Respondents Claim, the same Estate, not by the Gift of Sir William Davie, but by the said Settlement and Gift of the Respondent Mary's Mother, and if such Settlement was a Satisfaction, it must have been so at the time of making thereof, and it could not then be deemed a Satisfaction, because this Respondent Mary took nothing thereby but by way of Remainder after an Estate Tayle, which the Tenant in Tayle might by a Common Recovery have barr'd and destroy'd.

AND besides such Settlement was never declared or agreed, either by Sir William Davie, or his first Wife, to be a Satisfaction of the Money agreed to be paid by the Articles.

Object. 2. THE Appellants pretend, that the Devonshire Estate of the Value of 1400*l.* per Annum, settled by Sir William, by the Deeds of October 1706. and what was given to the Respondent Mary, by his said Will, must be deemed as a Satisfaction for what is due by the said Marriage Articles.

Answ. THAT the Legacies given to the Respondent Mary are of small Value, and less than what is given to each of the Appellants, by the same Will; and besides the Devonshire Estate is charged with 15000*l.* for the Portions of the Appellants, and with 1500*l.* more by the said Will and Decree for the Benefit of the Appellants, and part thereof to the Value of 220*l.* per Annum is in Jointure to the Appellants Mother, and the Respondent Mary had nothing by such Settlement at the making thereof, but a Remainder, together with the Appellants, after an Estate Tayle, which Sir William Davie might likewise have barred when he had thought fit: and it is not pretended Sir William Davie ever declared he intended it for a Satisfaction of what he was bound to do by the said Articles.

Besides the Appellants have each of them more out of Sir William Davie's Estate than this Respondent Mary hath, tho she was his Eldest Daughter, these Respondents not esteeming the Somersetshire Estate to be part of Sir William Davie's Estate; nor do they claim the same by his Gift, but by the Gift of the Respondent Mary's own Mother.

NOTE, THE Respondents are by the Decree debarred of the 1500*l.* because this Respondent Mary's Mother did not survive Sir William Davie; tho it is not reasonable to think, it was the Intention of the Parties, that the Limitation of that Sum to the Issue of that Marriage should depend on any such Contingency, and if the Respondent Mary should have had that 1500*l.* as well as the 2500*l.* yet she would have less out of Sir William Davie's Estate than either of her younger Sisters have.

THESE Respondents therefore hope, that the Decree in the Points Appealed from shall be affirmed, and the Respondents have their Costs.

Affirmed 14 Feb 1711

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Jof. Jekyll.

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and many his Wife, who
was only Daughter of the
late William Davis by his
first Wife

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The following table shows the number of persons who have been admitted to the various branches of the Society since the year 1840, and the number of persons who have been expelled from the same since the year 1840.

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THE STATE OF NEW YORK, ss. I, the Clerk of the Court of Sessions for the County of Albany, do hereby certify that the within and foregoing is a true and correct copy of the original of the same as the same appears from the records of the Court of Sessions for the County of Albany.

Davis & al Appellants.
Hooper and Ur Respondents.
The Respondents Cafe.
To be heard at the Bar of the
Honble of Lords, on Thursday the
14th Day of February, 1771.

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W. F. F. This is a very good book, but it is not a book of facts. It is a book of ideas. It is a book of ideas that are not only interesting, but also very useful. It is a book that is not only interesting, but also very useful. It is a book that is not only interesting, but also very useful.